



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Abecassis et al
Application No. : 09/901,240
Filed : 07/09/2001
Titled : Area-Based Resource Collection In A Real-Time Strategy Game

Group Art Unit : 3754
Examiner : Frederick C. Nicolas

APPELLANTS' BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This appeal brief is submitted to the Honorable Board of Patent Appeals and Interferences in support of an appeal from the final action dated 04/15/2005 ("Final Action") rejecting claims 1, 2, 5, 6, 7, 10, and 11. The requisite fee for submitting this appeal brief is enclosed.

The Notice of Appeal from the Decision of the Examiner to the Board of Patent Appeals and Interferences and requisite fee are contemporaneously submitted. A three month extension of time petition and fee are also enclosed. The application is on behalf of a small entity.

(1) Real Party In Interest.

Applicants ("Appellants") are the real parties in interest.

(2) Related Appeals And Interferences.

There are no appeals or interferences known to appellants which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status Of Claims.

The instant application is a continuation of Serial Number 09/901,240 filed 07/09/2001 comprising claims 1-20.

Responsive to a first Office Action mailed 09/20/2000, claims 1-20 were amended by an Amendment And Response To First Office Action dated 02/18/2003.

Responsive to a Final Action mailed 04/24/2003, each of the independent claims (1, 12, and 17) were amended, and also dependent claims 3-9, and 18 were amended by the Reply To Final Action filed 07/21/2003.

An Advisory Action mailed 07/29/2003 indicated that the proposed amendment after final would not be entered.

A Request For Continued Examination was filed 08/27/2003 comprising an amendment to each of the independent claims (1, 12, and 17) and to dependent claims 2-11, 13-15, and 18-19.

An Office Action mailed 10/01/2003 rejected claims 1-11 and allowed claims 12-20.

A reply to the Office Action mailed 10/01/2003, did not amend the rejected claims.

A Final Action mailed 02/10/2004, rejected claims 1-11 and continued to allow claims 12-20.

An appeal brief appealing the Final Action's rejection of claims 1-11 was filed on June 9, 2004. The appeal did not amend the rejected claims.

In view of the appeal brief, a non-final Office Action dated 08/23/2004, reopened prosecution on new grounds for rejection; rejected claims 1, 2, 5, 6, 7, 10, and 11; newly allowed claims 3, 4, 8, and 9 if rewritten in independent form including all the limitations of the base claim; and continued the previous allowance of claims 12-20.

A reply dated 02/15/2005 to the Office Action dated of 08/23/2004 urged allowance of the rejected claims 1, 2, 5, 6, 7, 10, and 11, and did not amend claims 3, 4, 8, and 9.

A Final Action mailed 04/15/2005 was consistent with the previous Office Action mailed 08/23/2004 and rejected claims 1, 2, 5, 6, 7, 10, and 11; allowed claims 3, 4, 8, and 9 if rewritten in independent form including all the limitations of the base claim, and continued to allow claims 12-20.

Accordingly claims 1, 2, 5, 6, 7, 10, and 11 are appealed from the Examiner to the Board of Patent Appeals and Interferences.

(4) Status of Amendments.

No amendments have been filed subsequent to the final rejection of 04/15/2005.

(5) Summary of Invention.

At the beginning of the Detailed Description To The Invention, the specifications teaches with respect to a real-time strategy ("RTS") computer software game that:

“Area-based resource collection enables a player to define an area of influence within a map from which the player may collect resources. The definitions of these areas of influence for a given player may be responsive, directly or indirectly, to that player’s decisions, actions, orders, and interactions with other players.” [Page 6, lines 1-4.]

As is illustrated in Figures 1-3

“In a preferred RTS game embodiment, the game is set in a high-technology universe in which resources are collected primarily through the use of reactors. By building a basic reactor, a player defines an area of influence surrounding the reactor. That is, the actual area of influence and the resulting resource collection potential are dynamically defined in response to a player’s action.” [Page 8, lines 15-19.]

“Reactors are made available in several different forms, such as basic, directional, focused, and/or mobile. Basic reactors would be the most simple, having a medium sized circular area of influence centered on the reactor. Directional reactors would have areas of influence in the shape of ellipses not centered on the reactor, so that the player could reach areas not otherwise possible by orienting the reactor toward the desired area. Focused reactors might have a smaller base area but have a bonus to the rate of resources extracted or be able to project their areas of influence to alternate locations. Mobile reactors would be closer in function to units than structures and be able to relocate themselves and thus their area of influence as the player sees fit. “[Page 8, line 28, to page 9, line 5.]

Figures 1 and 2 are drawn to illustrate that the areas are generated directly in response to an action of a player playing the game. A comparison of figures 1 and 2 shows that areas of influence are not pre-drawn, i.e., do not exist, in advance of a player’s actions.

“FIG. 2 is a diagram of a game in progress implementing an area-based resource collection illustrating the impact of the actions of a second player. The two players will be referred to as “the light player” whose reactors 111-113 were previously discussed with respect to FIG. 1 and are similarly shown in FIG. 2; and “the dark player” who constructed a reactor 131, defining an area of influence 141 in resource patch 101, and two basic reactors 132 and 133 in the neighboring resource patch 102. These two reactors generate an overlapping areas of influence 142 and 143 for the dark player.” [Page 11, line 27, to page 12, line 2.]

It should be appreciated that in this example, the second player has placed a reactor 131 so as to generate an area 141 that overlaps only a portion of a resource area 101, the overlapped portion defining a potential resource collection area for the second player. The generated area 141 also overlaps areas 121, 122, 123 previously generated by the first player.

In further, explaining, the invention, the specification provides detailed examples of how commercially available games such as “Total Annihilation” could be modified to benefit from the advantages of the invention:

“According to the area-based resource methods, TA could be enhanced, for example,

as follows. Substitute the existing structures which produce energy by power field generators (PFG). A PFG structure, when produced, would generate an area of influence about itself in a given radius. If no other PFGs are attempting to influence this area, then the PFG produces energy based on the total area under its influence. If the areas controlled by PFGs overlap, then their energy production is reduced responsive to formulas analogous to that of a gravity model." [Page 16, lines 23-29.]

The dynamic real time characteristics of the resource collection methods of the invention enable new principles of operation that offer conceptual advantages over prior art methods. For example:

"Area-based resource collection methods enable affecting resource collection by the overlapping of controlled areas. The overlapping of a player's areas of influence results in diminishing marginal returns. The overlapping a two player's controlled areas results in the sharing of either resource production in the common area, a splitting of the common area into two separately controlled zones, a cancellation of resource production in the contested zone, or simultaneous ownership by both sides. This allows for extremely varied and dynamic rules that may be applied to resource collection and production. " [Page 6, line 30, to page 7, line 6.]

(6) Issues.

Whether claims 1, 2, 5, 6, 7, 10, and 11, are properly rejected under 35 U.S.C. 102(b) as being anticipated by WARCRAFT II Blizzard Entertainment ("Warcraft").

(7) Grouping of Claims.

It is believed that each of the claims define the invention with a different degree of specificity and with a different degree of structural or methodological implementation, and that the claims do not stand or fall together. Following the general arguments, attention will be drawn to the limitations that are believed to render the claims separately patentable.

(8) Argument.

(A) Claim 1 is patentable under 35 U.S.C. § 102(b) over Warcraft.

Claim 1 recites in part:

generating, in direct response to an action of a player playing a game, a first area overlapping only a portion of a resource area, the overlapping portion defining a resource collection area; and enabling an acquisition of resources from the resource collection area.

Applicants' Figures 1 and 2 show, for example, *resource area* 101 (resource patch, page 11, line 16), in response to playing the game, a player selects a location to build a reactor 111. The

“action of a player playing the game”, e.g., building of the reactor, causes the *generating a first area 121 “overlapping only a portion of a resource area” 101*. The “*overlapping portion defining a resource collection area*” (only that portion of the resource patch 101 located within the area 121 generated by the reactor 111. The overlapping portion may be understood, for example, as the geometrically congruent area between the resource patch 101 and the reactor generated area 121.

In its support of its rejection, the Office Action asserts that Warcraft:

“discloses a method of playing a game (see Figure 1 on page 7), which comprises the steps of generating, in direct response to an action of a player playing a game, a first area (oil platform and see Figure 8 on page 16 for the location of the first area), the first area overlapping only a portion of a resource area (see page 16, lines 25-32 and as seen in Figure 9), the overlapping portion defining a resource collection area (oil) and see page 16, lines 25-36), and enabling an acquisition of resources from the resource collection area (see page 17, lines 1-10 and as seen in Figure 9), the first area covers at least a portion of one of a plurality of resource areas having different densities of resources, the first area covers at least a portion of one of a plurality of resource areas having qualitatively different resources (see page 16, lines 33-36).”

Thus, the Office Action relies on the teachings of Warcraft with respect to page 16, lines 25-36 and the corresponding Figures 8 and 9 for disclosing the claimed “*generating, in direct response to an action of a player playing a game, a first area overlapping only a portion of a resource area, the overlapping portion defining a resource collection area*”. As is detailed below, Warcraft does not anticipate or render obvious, in fact teaches away from the claimed limitation.

Warcraft in fact only teaches at page 16, lines 25-36 that:

1. Tankers are used to haul oil much in the same manner that Peasants are used to harvest lumber or mine gold. Tankers, however, must construct an Oil Platform from which to drill for this resource. The first step is to find a suitable location to place a Platform.
2. There are Oil Patches that represent concentrated areas of oil. Use your Tanker to scout out one of these sites by moving it around the waterways.

Thus, to this point Warcraft only suggests “to find a suitable location to place a Platform”. Then Warcraft indicates the existence of Oil Patches that represent concentrated areas of oil. In Warcraft the Oil Patches exist before any action by a player. Thus, the Office Action may only logically argue that the Oil patches are analogous to the *resource area 101* (resource patch, page 11, line 16) of the claim not a “*first area overlapping only a portion of a resource area, the overlapping portion defining a resource collection area; and enabling an acquisition of resources*

from the resource collection area” as the claim calls for

Warcraft then proceeds by reciting how to locate an Oil Platform within an Oil Patch:

3. When you have found an Oil Patch, click the Build Oil Platform icon in the Oil Tanker’s Unit Command area.
4. A green tinted image of an Oil Platform will appear on the Command Map that represents the amount of space required to build the Platform. If you attempt to place the Platform over any area that is not an Oil Patch, the image will pulsate red.
5. When you have chosen an appropriate site, place the Oil Platform. The Tanker will move to the site and begin construction.

Thus, Warcraft require that certain amount of space is required to build the Platform. That is what is shown by Warcraft’s Figures 8 and 9 relied upon by the Office Action. Warcraft concludes the Office Action’s applied section with:

6. When the Oil Platform is completed, the Tanker will automatically begin hauling oil back to the Shipyard. Any new Tankers that are constructed may be ordered to carry oil from an existing Oil Platform by selecting Haul Oil in its Unit Command area.

Warcraft explicitly thus teaches that “when the Oil Platform is completed, the Tanker will automatically begin hauling oil” extracted by the Oil Platform from the Oil Patch arguably a “*resource area*”. That is all that Warcraft teaches or suggests. The Claim call for much more than Warcraft anticipates or renders obvious.

Again, as the specification teaches, for example, with respect to 2, in direct response to an action of a player playing a game (e.g., the construction of a reactor 131), an area is generated that overlaps only a portion of a resource area 101, the overlapping portion 141 defining a resource collection area. Clearly, the resource collection area 141 is the less than the original resource area 101 from which resources could have been potentially collected.

Nothing in Warcraft anticipates that the construction of a Platform over an Oil Patch generates an area less than the area of the Oil Patch from which oil may be extracted. [Warcraft’s page 16, lines 25-36] All that Warcraft requires is that the Oil Platform be built over an Oil Patch page 17, lines 3-7] Nothing in Warcraft suggests that less than the entire Oil Patch would be available for resource collection. Contrary to the Office Action’s assertions, the locating and/or construction of a Platform in Warcraft does not cause the “*generating*” of “*a first area overlapping only a portion of a resource area, the overlapping portion defining a resource*

collection area”.

The Webster’s Encyclopedic Unabridged Dictionary of the English Language, New Deluxe Edition, does not provide a definition for the term “*generating*” and for the term “*overlapping*” that supports the Office Action rejection of claim 1 as being anticipated by Warcraft.

Warcraft, alone or in combination with the references of record does not teach, suggest, anticipate, or render obvious, teaches away from, does not recognize, much less appreciate the advantages, of the method of claim 1 which recites:

*A method of playing a game, the method comprising the steps of:
generating, in direct response to an action of a player playing a game, a first area overlapping only a portion of a resource area, the overlapping portion defining a resource collection area; and
enabling an acquisition of resources from the resource collection area.*

The subject matter claimed produces results, solves problems, offers advantages that are neither anticipated nor rendered obvious by Warcraft.

For example, Warcraft does not provide for the “extremely varied and dynamic rules that may be applied to resource collection and production” that are advanced by the methodology of claim 1:

“Area-based resource collection methods enable affecting resource collection by the overlapping of controlled areas. The overlapping of a player’s areas of influence results in diminishing marginal returns. The overlapping a two player’s controlled areas results in the sharing of either resource production in the common area, a splitting of the common area into two separately controlled zones, a cancellation of resource production in the contested zone, or simultaneous ownership by both sides. This allows for extremely varied and dynamic rules that may be applied to resource collection and production.” [Page 6, line 30, to page 7, line 6.]

For these reasons, appellants traverse the rejection of claim 1, and respectfully submit that the rejection of claim 1 under 35 U.S.C. §102(b) as being anticipated by Warcraft is unwarranted and should be reversed.

(B) Claim 2 is patentable under 35 U.S.C. § 102(b) over Warcraft.

In the context of claim 1 appealed dependent claim 2 requires that the first area, overlapping only a portion of a resource area, be a volume.

The Final Office action simply does not address the limitation of claim 2. The Office Action does not explain how the two-dimensional Oil Patches of Warcraft anticipate the three-dimensional structure of the claimed volume.

Warcraft does not describe the limitation of defining a resource collection area by generating a volume overlapping only a portion of a resource area.

For these reasons and the reasons provided with respect to claim 1, appellants traverse the rejection of dependent claim 2, and respectfully submit that the rejection of claim 2 under 35 U.S.C. §102(b) as being anticipated by Warcraft is unwarranted and should be reversed.

(C) Claim 5 is patentable under 35 U.S.C. § 102(b) over Warcraft.

In the context of claim 1 appealed dependent claim 5 calls for:

A method of playing a game, the method comprising the steps of: generating, in direct response to an action of a player playing a game, a first area overlapping only a portion of a resource area, the overlapping portion defining a resource collection area; enabling an acquisition of resources from the resource collection area; and wherein the resources that are available is further responsive to a means for the acquisition of resources.

The Final Action has failed address much less show how Warcraft describes, anticipates, or renders obvious, “*wherein the resources that are available is further responsive to a means for the acquisition of resources*”, as dependent claim 5 calls for. The Final Action does not provide an explicit argument or specific support for appellants to know why claim 5 has been rejected.

For these reasons and the reasons provided with respect to claim 1, appellants traverse the rejection of dependent claim 5, and respectfully submit that the rejection of claim 5 under 35 U.S.C. §102(b) as being anticipated by Warcraft is unwarranted and should be reversed.

(D) Claim 6 is patentable under 35 U.S.C. § 102(b) over Warcraft.

In the context of claim 1 appealed dependent claim 6 calls for:

A method of playing a game, the method comprising the steps of: generating, in direct response to an action of a player playing a game, a first area overlapping only a portion of a resource area, the overlapping portion defining a resource collection area; enabling an acquisition of resources from the resource collection area; and wherein the resources that are available is further responsive to a distance to a means for the acquisition of resources.

The Final Action has failed address much less show how Warcraft describes, anticipates, or renders obvious, “*wherein the resources that are available is further responsive to a distance to a means for the acquisition of resources*”, as dependent claim 6 calls for. The Final Action does not provide an explicit argument or specific support for appellants to know why claim 6 has been rejected.

For these reasons and the reasons provided with respect to claim 1, appellants traverse the

rejection of dependent claim 6, and respectfully submit that the rejection of claim 6 under 35 U.S.C. §102(b) as being anticipated by Warcraft is unwarranted and should be reversed.

(E) Claim 7 is patentable under 35 U.S.C. § 102(b) over Warcraft.

While the Final Action rejected dependent claim 7 under 35 U.S.C. § 102 as being anticipated by Warcraft, the Final Action and previous office actions have failed to provide any citation, explanation, reference, or support.

In the context of claim 1, how does Warcraft anticipate “*the resources that are available is further responsive to a distance to, and a magnitude of, a means for the acquisition of resources*”, as dependent claim 7 calls for? No such limitation is described, anticipated, or rendered obvious by Warcraft.

For these reasons and the reasons provided with respect to claim 1, appellants traverse the rejection of dependent claim 7, and respectfully submit that the rejection of claim 7 under 35 U.S.C. §102(b) as being anticipated by Warcraft is unwarranted and should be reversed.

(F) Claim 10 is patentable under 35 U.S.C. § 102(b) over Warcraft.

While the Office Action rejected dependent claim 10 under 35 U.S.C. § 102 as being anticipated by Warcraft, the Final Action and previous office actions have failed to provide any citation, explanation, reference, or support.

In the context of claim 1, how does Warcraft anticipate “*wherein the first area covers at least a portion of one of a plurality of resource areas having different densities of resources*”, as dependent claim 10 calls for? No such limitation is described, anticipated, or rendered obvious by Warcraft.

For these reasons and the reasons provided with respect to claim 1, appellants traverse the rejection of dependent claim 10, and respectfully submit that the rejection of claim 10 under 35 U.S.C. §102(b) as being anticipated by Warcraft is unwarranted and should be reversed.

(G) Claim 11 is patentable under 35 U.S.C. § 102(b) over Warcraft.

While the Office Action rejected dependent claim 11 under 35 U.S.C. § 102 as being anticipated by Warcraft, the Final Action and previous office actions have failed to provide any citation, explanation, reference, or support.

In the context of claim 1, how does Warcraft anticipate “*wherein the first area covers at least a portion of one of a plurality of resource areas having qualitatively different resources*”, as dependent claim 11 calls for? No such limitation is described, anticipated, or rendered obvious by

Warcraft.

For these reasons and the reasons provided with respect to claim 1, appellants traverse the rejection of dependent claim 11, and respectfully submit that the rejection of claim 11 under 35 U.S.C. §102(b) as being anticipated by Warcraft is unwarranted and should be reversed.

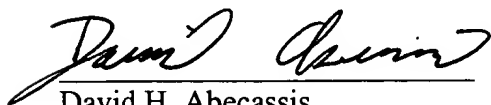
Conclusion

As in the case of claims 12-20, each of the rejected claims 1, 2, 5, 6, 7, 10, and 11 also recite useful, novel, nonobvious, and enabled inventions, clearly described in appellants specification, and that offer advantages not anticipated or rendered obvious by Warcraft. It is respectfully submitted to the Honorable Board that the rejection of any one of the outstanding claims under 35 U.S.C. § 102(b) as being anticipated by Warcraft is unwarranted and should be reversed.

By the above reply, appellants have attempted to diligently respond to each of the principal issues raised by the Final Action. If a particular assertion or remark in the Final Action is deemed not to be directly or indirectly addressed, it should not be interpreted as indicating agreement with such an assertion or remark. For purposes of presentation, the remarks have been provided in as simple a manner as possible, and do not embody the richness or breadth of the specification of the present inventions.

The section (9) Appendix, consisting of a copy of the outstanding claims, follows further below beginning on a new page.

Respectfully submitted,



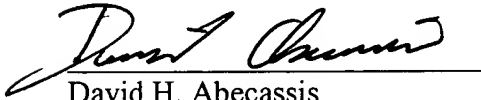
David H. Abecassis
Appellant
Phone: 561-470-1181

10/07/05
Date

CERTIFICATE OF MAILING

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I hereby certify that this Appeal Brief (in triplicate) and fee are being deposited with the United States Postal Service using "Express Mail Post Office To Addressee" service on the date indicated above and is addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

A handwritten signature in black ink, appearing to read "David H. Abecassis", is written over a horizontal line.

David H. Abecassis
Appellant

Application No. : 09/901,240
Filed : 07/09/2001

(9) Appendix.

1. (Previously amended) A method of playing a game, the method comprising the steps of:
generating, in direct response to an action of a player playing a game, a first area
overlapping only a portion of a resource area, the overlapping portion defining a resource
collection area; and

enabling an acquisition of resources from the resource collection area.

2. (Previously amended) The method of claim 1, wherein the first area is a volume.

3. (Allowed if written independent form) The method of claim 1, further comprising the
step of generating a second area overlapping at least a portion of the resource collection area.

4. (Allowed if written independent form) The method of claim 1, further comprising the
step of generating a second area overlapping at least a portion of the resource collection area; and
wherein the first area and the second area differ with respect to a degree of influence over the
resources that are available from the overlapping portion of the resource collection area.

5. (Previously amended) The method of claim 1, wherein the resources that are available is
further responsive to a means for the acquisition of resources.

6. (Previously amended) The method of claim 1, wherein the resources that are available is
further responsive to a distance to a means for the acquisition of resources.

7. (Previously amended) The method of claim 1, wherein the resources that are available is
further responsive to a distance to, and a magnitude of, a means for the acquisition of resources.

8. (Allowed if written independent form) The method of claim 1, further comprising the
step of generating a second area overlapping at least a portion of the resource collection area; the
overlapping portion having an effect on a rate at which resources are acquired from the

overlapping portion of the resource collection area.

9. (Allowed if written independent form) The method of claim 1, further comprising the step of generating a second area overlapping at least a portion of the resource collection area and having an effect on a total quantity of resources that acquired from the overlapping portion of the resource collection area.

10. (Previously amended) The method of claim 1, wherein the first area covers at least a portion of one of a plurality of resource areas having different densities of resources.

11. (Previously amended) The method of claim 1, wherein the first area covers at least a portion of one of a plurality of resource areas having qualitatively different resources.

12. (Allowed) A method of playing a game, the method comprising the steps of:
generating, in direct response to an action of a player playing a game, a first area comprising resources that are available;
generating a second area overlapping at least a first portion of the first area;
impacting an acquisition of resources from the first portion of the first area being overlapped by the second area; and
enabling an acquisition of resources from a second portion of the first area not being overlapped by the second area.

13. (Allowed) The method of claim 12, wherein the impacting of an acquisition of resources reduces a rate that resources are acquired from the first portion of the first area being overlapped by the second area.

14. (Allowed) The method of claim 12, wherein the impacting of an acquisition of resources prevents the acquisition of resources from the first portion of the first area being overlapped by the second area.

15. (Allowed) The method of claim 12, wherein the impacting of an acquisition of

resources is responsive to a comparison of a means utilized to generate the first area to a means utilized to generate the second area.

16. (Allowed) The method of claim 12, wherein the impacting of an acquisition of resources is responsive to a comparison of a capability to acquire resources from the first area to a capability to acquire resources from the second area.

17. (Allowed) A method of playing a game, the method comprising the steps of:
generating, in direct response to an action of a player playing of a game, a first area overlapping at least a portion of one of a plurality of resource areas, the overlapping portion defining a resource collection area;
generating a second area overlapping at least a first portion of the resource collection area;
impacting an acquisition of resources from the first portion of the resource collection area being overlapped by the second area; and
enabling an acquisition of resources from a second portion of the resource collection area not being overlapped by the second area.

18. (Allowed) The method of claim 17, wherein the impacting of an acquisition of resources reduces a rate that resources are acquired from the portion of the resource collection area being overlapped by the second area.

19. (Allowed) The method of claim 17, wherein the impacting of an acquisition of resources prevents the acquisition of resources from the first portion of the resource collection area being overlapped by the second area.

20. (Allowed) The method of claim 17, wherein the impacting of an acquisition of resources is responsive to a comparison of a capability to acquire resources from the first area to a capability to acquire resources from the second area. –